proper. *Voelker Products Co.* v. *United Rys. Co. of St. Louis*, 170 S. W. 332 (Mo. App.).

The case is particularly interesting as a vigorous denial of the fiction that a man is presumed to know the law, which grew up as an expression of the principle that ignorance of the law is no excuse. See *Regina* v. *Coote*, 9 Moo. P. C. N. S. 463; *Mackowik* v. *Kansas City, St. J. & C. B. R. Co.*, 196 Mo. 550, 571, 94 S. W. 256. In putting on the plaintiff the burden of proving his reliance on the defendants' performance of its statutory duty, however, the court seems to have gone too far in the opposite direction, and to have formulated a presumption that a man knows nothing about the law. According to the local law, the burden of proving the plaintiff's contributory negligence was on the defendant. *Bluedorn* v. *Missouri Pacific Ry. Co.*, 24 S. W. 57 (Mo.). And Missouri does not purport to follow the artificial Pennsylvania doctrine that a man who does not "stop, look, and listen" at the edge of the track is negligent as a matter of law. *Rissler* v. *St. Louis Transit Co.*, 113 Mo. App. 120, 124, 87 S. W. 578, 580. *Cf. Burke* v. *Union Traction Co.*, 198 Pa. St. 497, 48 Atl. 470. To entitle the defendant to a directed verdict, therefore, it was necessary to show conduct on the part of the plaintiff which could not reasonably be found consistent with due care. In the principal case, however, the only evidence before the court showed a course of action which might have been either careful or negligent, according as the plaintiff relied on the observance of the statute or not. *Baltimore & O. S. W. Ry. Co.* v. *Then*, 159 Ill. 535, 42 N. E. 971. The court's presumption of ignorance of the statute seems a strange one, for it is reasonable to suppose that a driver would be familiar with the speed laws of the city. See *Schmidt* v. *Burlington, C. R. & N. Ry. Co.*, 75 Ia. 606, 39 N. W. 916.

TAXATION — PARTICULAR FORMS OF TAXATION — NEW YORK TRANSFER TAX: TAXATION OF RIGHT OF SURVIVORSHIP. — The owner of stock in a certain corporation, by vote of the corporation, was entitled to the total net income for life, and had certain of the shares reissued to himself and another, and the survivor of them. This transfer was gratuitous, and the donor reserved the right to vote the stock as well as the right to annul the donee's interest during his life. The donor died after the passage of the Transfer Tax Act. *Held*, that the survivor's interest is taxable. *Matter of Dana Co.*, 164 N. Y. App. Div. 44.

The New York Transfer Tax law provides that any transfer of property intended to take effect "in possession and enjoyment" after the death of the donor shall be taxable. CONSOL. LAWS, N. Y., TAX LAW, § 220, subd. 4, 5. It is not necessary that the transfer be made in contemplation of death. See *Matter of Brandreth*, 169 N. Y. 437, 441, 62 N. E. 563, 564. But ordinarily a gift *inter vivos*, not made in contemplation of death, will not be taxable. *Matter of Spaulding*, 163 N. Y. 607, 57 N. E. 1124. See MCELROY, TRANSFER TAX LAW, 2 ed., § 148. It has been held, however, that a gift of stock *inter vivos* is taxable where all the dividends, as well as the right to vote the stock, are reserved to the donor for his life, so that the gift is intended to rest in enjoyment after his death. *Matter of Brandreth, supra*. The test laid down by the courts, under a broad construction of the statute, is whether or not the enjoyment of the property by the transferee begins at or after the death of the transferor. The principal case, therefore, is clearly correct, although it might not be proper to reach the same result in the ordinary case of joint interests.

TRADE MARKS AND TRADE NAMES — PROTECTION APART FROM STATUTE — PURCHASE OF A NAME BY A CORPORATION FOR PURPOSES OF UNFAIR COMPETITION. — Arthur A. Waterman had established a small and unsuccessful

fountain-pen business in competition with the complainant. The defendant corporation bought this business for the express purpose of employing the name in unfair competition. *Held*, that relief will not be given further than to require the defendant to use the name with the suffix "not connected with the L. E. Waterman Co." *L. E. Waterman Co.* v. *Modern Pen Co.*, 235 U. S. 88.

Previous to this decision the attitude of our courts toward a trader who seeks to draw to himself the profit of a predecessor in the business through a similarity of name has been most severe. Newly formed corporations must not imitate the legal cognomen of a rival. *Holmes* v. *Holmes, etc. Co.*, 37 Conn. 278; *Hendriks* v. *Montagu*, 17 Ch. Div. 638. Repeatedly where a dummy member has been taken into a corporation or partnership for the very purpose of making possible the unfair competition, the use of the name in any way whatever has been prohibited. *Higgins Co.* v. *Higgins Soap Co.*, 144 N. Y. 462, 39 N. E. 490; *R. W. Rogers Co.* v. *Wm. Rogers Mfg. Co.*, 70 Fed. 1017; *Melachrino and Co.* v. *The Melachrino, etc. Co.*, 4 Pat. Rep. Eng. 215. Much of the former authority, furthermore, seems to regard it as immaterial that the individual from whom the name was secured had to a certain extent been actually engaged in the business. *R. W. Rogers Co.* v. *Wm. Rogers Mfg. Co., supra; Sawyer* v. *Kellogg*, 7 Fed. 720. See 12 HARV. L. REV. 243, 245. And when an enterprising but piratical manufacturer boldly changed his own name to match that of his competitor, its use by him was absolutely enjoined. *Pinet* v. *Pinet*, [1898] 1 Ch. 179. In contrast to all of this, it must be remembered that where the right of an individual to use his own name is involved the courts will never go further than to insist that he make an honest effort to prevent confusion in the public mind. *American Cereal Co.* v. *Eli Pettijohn Cereal Co.*, 72 Fed. 903; *Walter Baker & Co.* v. *Baker*, 77 Fed. 181. The majority opinion in the principal case lays stress on this point, and holds in effect that the assignee corporation must stand on the same footing as would the individual himself. But a corporation is free to choose its own name, and if it takes a name with practically no desire but that of unfair profit, there are no personal considerations to hamper the court. It would seem, therefore, as though justice fell short if it did not make the piracy completely impossible. No amount of relief in the shape of accompanying suffixes can altogether eliminate confusion, and to the extent that it fails the defendant corporation, as the dissent points out, is able to consummate its fraudulent desire. See *International Silver Co.* v. *Rogers Corporation*, 67 N. J. Eq. 646, 60 Atl. 187. Instructive sidelights are thrown on the principal case by its report in the District Court. See 193 Fed. 242.

WITNESSES — SEQUESTRATION — DISQUALIFICATION FOR DISOBEYING SEQUESTRATION ORDER. — A witness remained in court in violation of a sequestration order, without the connivance of the party calling him. The trial court excluded his testimony. *Held*, that the ruling is correct. *Illinois Central Ry. Co.* v. *Outland's Adm'x*, 170 S. W. 48 (Ky.).

Where a witness violates a sequestration order and remains in court, without the connivance or consent of the party calling him, the probable weight of authority holds it reversible error to exclude the testimony. *Friedman* v. *Myers*, 14 N. Y. Supp. 142; *Parker* v. *State*, 67 Md. 329, 10 Atl. 219; *Behrman* v. *Terry*, 31 Colo. 155, 71 Pac. 1118. Even under this rule, the fact that the witness has violated an exclusion order would, of course, affect his credit. See *Ferguson* v. *Brown*, 75 Miss. 214, 224, 21 So. 603, 605. It has been held, however, in accordance with the principal case, that exclusion of the witness is discretionary, even where the party for whom he testifies is not at fault. *Galveston, etc. Ry. Co.* v. *Pingenot*, 142 S. W. 93 (Tex. Civ. App.); *Thorn* v. *Kemp*, 98 Ala. 417, 13 So. 749. Against lodging this discretion in the trial court, it has been argued that an innocent party should not be deprived of